

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

PHILLIP D. COODY)	
Claimant)	
VS.)	
)	Docket No. 184,928
RONAN'S ROOFING, INC.)	& 201,658
Respondent)	
AND)	
)	
HARTFORD ACCIDENT & INDEMNITY)	
Insurance Carrier)	
AND)	
)	
KANSAS WORKERS COMPENSATION FUND)	

ORDER

Respondent and the Kansas Workers Compensation Fund appealed the Order of Administrative Law Judge Alvin E. Witwer dated October 15, 1996, wherein Judge Witwer granted claimant benefits in the form of medical treatment under the direction of John Michael Quinn, M.D., and temporary total disability compensation beginning with the date of surgery and continuing until claimant is returned to work, has reached maximum medical improvement, or until further order of the Administrative Law Judge. The liability of the Kansas Workers Compensation Fund was left undetermined.

ISSUES

- (1) Whether claimant suffered accidental injury on the dates alleged.
- (2) Whether claimant's accidental injuries arose out of and in the course of his employment with respondent.

(3) The dismissal of the Kansas Workers Compensation Fund.

Subsequent to the filing of the appeal, but prior to the issuance of this Order, the Appeals Board was advised that the respondent, Ronan's Roofing, Inc., and its insurance carrier, Hartford Accident & Indemnity, agreed to voluntarily dismiss the Kansas Workers Compensation Fund from this matter. Therefore, the issue involving dismissal of the Kansas Workers Compensation Fund has been rendered moot. At the October 14, 1996, hearing the parties stipulated that the reports of Dr. Quinn and all of the exhibits from the December 15, 1995, preliminary hearing were available for the Court's consideration.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds as follows:

The Appeals Board finds, after reviewing the medical records, that the Order of Administrative Law Judge Alvin E. Witwer should be affirmed.

Claimant suffered accidental injury to his right hand on May 5, 1993, and to his bilateral upper extremities during a series of accidents beginning on July 11 and continuing through August 26, 1994. The injury to claimant's right hand occurring on May 5, 1993, is not in controversy at this time.

Claimant has consistently testified throughout this litigation as to the cause of the symptomatology experienced to his upper extremities. Respondent contends that claimant's current symptomatology stems not from his work with the respondent Ronan's but instead from several intervening periods of employment with other employers subsequent to claimant's termination of employment with respondent. The evidence does not support respondent's contentions. A review of the medical records of Dr. Quinn, Dr. Ketchum, and Dr. Storm show a long history of complaints by claimant involving his upper extremities, beginning with his employment with respondent. Regardless of the fact that Dr. Storm's report of September 4, 1996, states to the contrary, it appears as though claimant had not reached a resolution of all of his symptoms prior to the December 15, 1995, preliminary hearing. The medical records of Dr. Ketchum and earlier records of Dr. Storm indicate that claimant was experiencing ongoing symptomatology in his upper extremities with recommendations for possible surgery to correct flexor tenosynovitis bilaterally and continuing carpal tunnel symptoms.

The Appeals Board finds, based upon a review of the medical records and the testimony of the claimant, that his current need for medical treatment stems from his many years of employment with Ronan's resulting in bilateral upper extremity injuries occurring through August 26, 1994.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Alvin E. Witwer dated October 15, 1996, is affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of December 1996.

BOARD MEMBER

c: Jeff S. Bloskey, Kansas City, KS
Mark J. Hoffmeister, Overland Park, KS
Michael R. Wallace, Shawnee Mission, KS
Alvin E. Witwer, Administrative Law Judge
Philip S. Harness, Director